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## **OLR Bill Analysis**

**sHB 5044 (as amended by House "A")\***

### ***AN ACT CONCERNING DOMESTICATED HORSES.***

#### **SUMMARY:**

This bill states that in any civil action brought against the owner or keeper of any horse, pony, donkey, or mule (i.e., "horse") to recover damages for an injury the animal allegedly caused that these animals do not belong to a naturally mischievous or vicious species. Additionally, the bill creates a presumption in any civil action that the individual animal does not possess a propensity for behavior that would foreseeably be dangerous to humans. This presumption is rebuttable by evidence the animal exhibited behavior in the past that alerted the owner or keeper that it had a propensity to engage in the behavior that allegedly caused the injury in question.

The bill also prohibits state courts from holding owners or keepers of such animals strictly liable for damages they cause. These changes potentially reduce the owner or keeper's civil liability for damages.

A recent Connecticut Supreme Court decision classified horses as an inherently dangerous species with vicious propensities because they have a natural propensity to bite, which imposes a duty on the owner or keeper to guard against foreseeable injuries.

\*House Amendment "A" replaces the original file, which contained similar changes to the liability of the owners and keepers of horses in civil actions seeking to recover damages caused by the animal. It explicitly prohibits courts from applying strict liability to the owner or keeper for injuries caused by one of these animals.

EFFECTIVE DATE: Upon passage

#### **OWNER'S OR KEEPER'S DUTY OF CARE**

In *Vendrella v. Astriab*, 311 Conn. 301(2014), the Supreme Court ruled an owner of a domesticated animal has a duty, under a two-part test, to use reasonable care to restrain the animal so as to prevent it from doing injury if the owner or keeper knows that the animal:

1. belongs to a species with vicious propensities, which means a natural tendency to engage in behavior that could be dangerous to people or property, or
2. has an individual tendency to engage in behavior unusual to its species that could be dangerous to people or property.

The first part of this test applies categorically to an entire species, while the second part requires a case-by-case determination examining the behavior and characteristics of the individual animal in question.

Under the bill, an owner or keeper will only have the duty to use reasonable care to restrain the animal to prevent foreseeable harm if the animal has exhibited behavior in the past that alerted the owner or keeper to the dangerous behaviors of that individual animal. A duty may no longer be imposed on the basis that a horse belongs to an inherently dangerous species.

## **STRICT LIABILITY PROHIBITED**

Strict liability holds the defendant in personal injury suits responsible for the injuries without requiring the plaintiff to prove the defendant's conduct was negligent. Under the changes made by this bill, before the owner or keeper of these animals can be held liable for injuries they cause, the plaintiff must prove (1) that the animal in question exhibited past behavior that alerted the owner or keeper to that individual animal's dangerous tendencies and (2) that the owner or keeper acted negligently in guarding against injuries that might be foreseeably caused by the individual animal's tendencies.

## **BACKGROUND**

### ***Vicious Propensity Defined***

In *Vendrella v. Astriab*, the Appellate Court also explained the phrase "vicious propensity" means any tendency on the part of a domestic

animal to engage in behavior likely to cause injury to human beings under the circumstances in which the party controlling the animal places it. This behavior may include playfulness or curiosity on the part of the animal that may be potentially dangerous to people.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0 (03/07/2014)